



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,376	12/06/2001	Conrad Peter Martin	1182-44	4827

7590 09/08/2003

Thomas M. Galgano, Esq.
Galgano & Burke
Suite 135
300 Rabro Drive
Hauppauge, NY 11788

EXAMINER

LEV, BRUCE ALLEN

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,376

Applicant(s)

Martin

Examiner

Bruce A. Lev

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 15, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-36 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

BRUCE A. LEV

PRIMARY EXAMINER

Art Unit: 3634

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 15-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claim 15, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of a “flyscreen” is being claimed. However, the body of the claim positively recites a “door”, e.g., “flyscreen comprising a door”, which indicates the claims as being drawn to a combination of the “flyscreen” and the “door”. Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the “flyscreen” alone or in combination with the “door”, and to present the claims with the language which is consistent with the invention. The applicant should note that “*adapted to be*” language may be appropriate if claiming the “flyscreen” alone (i.e., “adapted to be secured to”).

As concerns claim 26, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of a “flyscreen” is being claimed. However, the body of the claim positively recites a “window”, e.g., “flyscreen comprising a window”, which indicates the claims as being drawn to a combination of the “flyscreen” and the

Art Unit: 3634

“window”. Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the “flyscreen” alone or in combination with the “window”, and to present the claims with the language which is consistent with the invention. The applicant should note that “*adapted to be*” language may be appropriate if claiming the “flyscreen” alone (i.e., “adapted to be secured to”).

Claim Rejections - 35 USC § 103

2. Claims 15-18, 22, 23, 26-29, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Collins 3,566,950*.

Collins sets forth a flyscreen 20 comprising a door/window having a jamb; a frame; a mesh; and a first brush 116 on the frame. ***What Collins does not set forth*** is the mating brush on the door/window jamb. However, the examiner takes the position that it would have merely been a ***duplication of parts*** to provide a mating brush member upon the door/window jamb in order to increase the pressure between the members and the brushes, and thereby increase the ability of the members to block movement of air or insects between the screen and frame members.

Allowable Subject Matter

3. Claims 19-21, 24, 25, 30-32, 35, and 36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 3634

4. The following is an examiner's statement of reasons for allowance:

Structural limitations pertaining to the *first brush mounted on a **projecting limb*** of the frame, along with the other structural limitations are neither taught nor suggested by the prior art of record.

Response to Amendment

4. Applicant's remarks filed August 15, 2003 have been fully considered but are deemed moot due to the new grounds of rejection as advanced above.

Conclusion

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Applicant's amendment, including "a flyscreen comprising a...sliding **frame**", in claims 15 and 26, necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE

Art Unit: 3634

OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

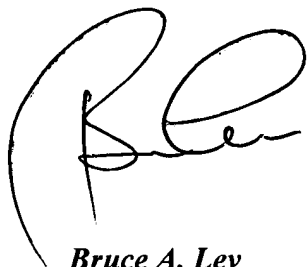
Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

August 29, 2003

A handwritten signature in black ink, appearing to read 'Bruce A. Lev', with a large, stylized initial 'B'.

Bruce A. Lev

Primary Examiner

Group 3600